

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ALAN DEATLEY,

Plaintiff,

vs.

ALBERT E. DEATLEY, an individual,  
SUPERIOR ASPHALT & PAVING CO.,  
a Washington corporation, and  
SUPERIOR ASPHALT & CONCRETE  
CO., a Washington corporation.

Defendants.

NO. CV-04-3082-JLQ

ORDER SETTING HEARING  
IN SPOKANE TO RESOLVE  
DISCOVERY DISPUTES

A telephonic hearing was held in the above-entitled matter on May 23, 2005, to address on-going discovery disputes. **Christopher Howard** appeared on behalf of Plaintiff. **Dale Martin** appeared on behalf of Defendants. Before the court are Plaintiff's Motion to Compel Depositions (Ct. Rec. 65), Motion for Protective Order (Ct. Rec. 67), and Motion for Expedited Hearing thereon. (Ct. Rec. 71).

The on-going discovery disputes as well as the impending discovery cut-off date of June 1, 2005, were discussed. Defendants advised that they were filing a motion to continue or stay discovery along with motions directed to discovery issues. Counsel for both parties agreed that it will likely be necessary to request the discovery cut-off date of June 1, 2005.

**IT IS HEREBY ORDERED:**

1. The Motion for Expedited Hearing is **GRANTED**. (Ct. Rec. 71).
2. The Motion to Compel Depositions (Ct. Rec. 65) is **DENIED** to the extent that Albert DeAtley and the Superior employees Plaintiff seeks to depose shall be deposed after Plaintiff Alan DeAtley. Therefore, the depositions noted for May 25th

1 and 26th are stricken.

2 3. The court **RESERVES** formal ruling on Plaintiff's Motion for Protective  
3 Order (Ct. Rec. 67), however Albert DeAtley is ordered to have no personal contact  
4 with anyone having business relations with Alan DeAtley other than through attorney  
5 Martin pending the further Order of the court.

6 4. The parties are advised that the court finds the failure to cooperatively set  
7 deposition and discovery schedules and to serve notice of subpoenas and/or depositions  
8 to be completely inappropriate and unprofessional and in violation, *inter alia*, of the  
9 letter and spirit of Federal Rule of Civil Procedure 26. Any further violations or  
10 conduct evidencing incivility will be met with appropriate sanctions. The court is this  
11 date mailing to counsel for the parties its Memo dated October 20, 1997 concerning  
12 civility together with Judge Paul L. Friedman's paper dated March 13, 1998 entitled  
13 "Fostering Civility: A Professional Obligation." All attorneys from both law firms who  
14 are involved in the matter *sub judice* are directed to read and reflect on the statements of  
15 Judges Friedman and Koeltl.

16 5. The parties shall appear for an in court hearing in **Spokane**, Washington on  
17 **Friday, June 3, 2005 at 1:00 p.m..** The parties shall be prepared to address any  
18 remaining discovery issues, all pending motions, and the rescheduling of the discovery  
19 cut-off date in this matter. Prior to this hearing, the parties shall meet and confer and be  
20 prepared to inform the court as to discovery matters that have been resolved and also to  
21 recommend to the court the name(s) of proposed discovery master(s).

22 **IT IS SO ORDERED.** The Clerk is hereby directed to enter this Order and  
23 furnish copies to counsel.

24 **DATED** this 24th day of May, 2005.

25  
26 s/ Justin L. Quackenbush  
27 JUSTIN L. QUACKENBUSH  
28 SENIOR UNITED STATES DISTRICT JUDGE